



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-RO4-OAR-2020-0185; FRL- 10024-49 Region 4 ]

**Air Plan Approval; Florida;**

**Maintenance Plan Update for the Hillsborough County Lead Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP), on January 23, 2020. The SIP revision updates the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the maintenance plan for the Hillsborough County lead maintenance area (hereinafter referred to as the “Hillsborough Area” or “Area”) for the 2008 lead national ambient air quality standards (NAAQS). The SIP revision also incorporates recent changes to the air construction permit for the EnviroFocus Technologies, LLC (EnviroFocus) facility in the Area that are related to an increase in the refined lead production limit. EPA believes that this SIP revision meets all relevant Clean Air Act (CAA or Act) statutory and regulatory requirements, is consistent with EPA’s guidance, and is in accordance with EPA’s September 11, 2018, redesignation of the Hillsborough Area from nonattainment to maintenance.

**DATES:** This rule is effective [Insert 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-RO4-OAR-2020-0185. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e.,

Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8966. Mr. Febres can also be reached via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On November 12, 2008 (73 FR 66964), EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). Under EPA's regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R of 40 CFR part 50, is less than or equal to 0.15  $\mu\text{g}/\text{m}^3$ . *See* 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Hillsborough Area<sup>1</sup> as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (75 FR 71033), effective December 31, 2010, using 2007-2009 ambient air quality data. This established an attainment date of five years after the December 31, 2010, effective date for the 2008 lead nonattainment designations pursuant to CAA section 172(a)(2)(A). Therefore, the Hillsborough Area's attainment date was December 31, 2015.

On April 16, 2015 (80 FR 20441), EPA published a final rule that approved a SIP revision, comprised of an attainment plan, based on Florida's attainment demonstration for the Hillsborough Area that included the base year emissions inventory requirements, a modeling demonstration of attainment for the 2008 lead NAAQS, reasonably available control measure requirements that included reasonably available control technology, a reasonable further progress plan, and CAA section 172(c)(9) contingency measures for the Hillsborough Area.

Subsequently, on September 11, 2018 (83 FR 45836), EPA published a final rule that approved Florida's March 26, 2018, redesignation request and associated SIP revision for the Hillsborough Area. Specifically, EPA took three separate but related final actions regarding the Hillsborough Area: (1) Determined that the Hillsborough Area attained the 2008 lead NAAQS based on complete, quality-assured, and certified ambient monitoring data for the 2014–2016 period, and that the Hillsborough Area continued to attain the standard based on complete, quality-assured, and certified ambient monitoring data for the 2015–2017 period; (2) approved the maintenance plan for the Hillsborough Area and incorporated it into the Florida SIP; and (3) approved Florida's request for redesignation of the Hillsborough Area from nonattainment to attainment for the 2008 lead NAAQS.

Finally, on January 23, 2020, Florida submitted a SIP revision that seeks to update the attainment emissions inventory and the maintenance demonstration, including the projected

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<sup>1</sup> The Hillsborough Area is comprised of a portion of Hillsborough County in Florida bounded by a 1.5 km radius centered at Universal Transverse Mercator coordinates 364104 meters East, 30093830 meters North, Zone 17, which surrounds Envirofocus.

future emissions inventories, in the maintenance plan for the Area.<sup>2</sup> The SIP revision also seeks to incorporate recent changes to the air construction permit for the EnviroFocus facility that are related to an increase in the refined lead production limit. A detailed description of the changes, as well as EPA's rationale for approving the January 23, 2020, SIP revision, can be found in the Notice of Propose Rulemaking (NPRM), which published on March 25, 2021. *See* 86 FR 15840). Comments on the March 25, 2021, NPRM were due on or before April 26, 2021. No comments were received.

## **II. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference into Florida's SIP, Air Construction Permit No. 0570057-27-AC, issued by FDEP to EnviroFocus with an effective date of December 14, 2012, except for the following: 1) Conditions not specifically related to lead emissions; 2) Section 3, Subsection B, Specific Condition 3; 3) Section 3, Subsection B, Specific Condition 10; 4) Section 3, Subsection C, Specific Condition 5; and 5) Section 3, Subsection G, Specific Condition 5. EPA is also incorporating by reference into Florida's SIP the following conditions from Air Construction Permit No. 0570057-37-AC, issued by FDEP to EnviroFocus with an effective date of November 6, 2019: (1) Section 3, Subsection B, Specific Condition 2;<sup>3</sup> (2) Section 3, Subsection B, Specific Condition 3a;<sup>4</sup> (3) Section 3, Subsection C, Specific Condition 1;<sup>5</sup> and (4) Section 3, Subsection

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<sup>2</sup> Florida's SIP revision did not seek changes to any other portions of the maintenance plan. Therefore, those portions of the plan remain in the SIP as approved by EPA in its September 11, 2018, action (83 FR 45836).

<sup>3</sup> This provision states: "*Lead Production*: The maximum refined lead production from the EFT facility shall not exceed 200,000 tons in any consecutive twelve-month period. [Application No. 0570057-037-AC and Rule 62-210.200 (PTE), F.A.C.]"

<sup>4</sup> This provision states: "*Furnace Capacities*: Any equipment or any other changes authorized as part of this permit, shall not result in any capacity increase of the reverb or blast furnaces. The reverb furnace shall still be limited to a maximum charge rate of 960 tons per day (TPD) with a maximum capacity of 338,400 tons in any twelve-month consecutive period. The blast furnace shall still have a maximum charge rate of 180 TPD with a maximum capacity of 65,700 tons in any twelve-month consecutive period. [Application No. 050057-037-AC; Rules 62-4.070(3) and 62-210.200(PTE), F.A.C.]"

<sup>5</sup> This provision states: "*Lead Production*: The maximum refined lead produced from the EFT facility shall not exceed 200,000 tons in any consecutive twelve-month period. [Application No. 0570057-037 and Rule 62-210.200(PTE), F.A.C.]"

D, Specific Condition 1.<sup>6</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>7</sup>

### **III. Final Action**

EPA is approving changes regarding the Hillsborough Area as presented in Florida’s January 23, 2020, SIP revision. The changes include corrections to the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the maintenance plan for the Area. The SIP revision also includes recent changes to the construction permit for the EnviroFocus facility that authorize an increase in the refined lead production limit at the facility. EPA finds that the changes to the SIP will not interfere with any applicable requirement concerning attainment, RFP, or any other applicable requirement of the CAA. EPA therefore is incorporating the changes to the maintenance plan and the facility’s permit into the Florida SIP.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40

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<sup>6</sup> This provision states: “*Production*: The maximum refined lead produced from the enclosed facility shall not exceed 200,000 tons any consecutive twelve-month period. [Application No. 0570057-037-AC and Rule 62.210.200(PTE), F.A.C.]”

<sup>7</sup> *See* 62 FR 27968 (May 22, 1997).

CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 26, 2021.

John Blevins,  
*Acting Regional Administrator,*  
*Region 4.*



For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

## **PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart K – Florida**

2. Section 52.520 is amended in paragraph (d) by adding two entries at the end of the table for “EnviroFocus Technologies, LLC” and in paragraph (e) by adding an entry at the end of the table for “2008 Lead NAAQS Maintenance Plan for the Hillsborough Area” to read as follows:

#### **§ 52.520 Identification of plan.**

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(d) \* \* \*

#### **EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS**

<b>Name of source</b>	<b>Permit No.</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
<b>**</b>	<b>**</b>	<b>**</b>	<b>*</b>	<b>*</b>
EnviroFocus Technologies, LLC	Air Construction Permit No. 0570057-27-AC	12/14/2012	[Insert date of publication in FEDERAL REGISTER] [Insert citation of publication]	Except for conditions not specifically related to lead emissions; Section 3, Subsection B, Specific Conditions 3 and 10; Section 3, Subsection C, Specific Condition 5; and Section 3, Subsection G, Specific Condition 5.
EnviroFocus Technologies, LLC	Air Construction Permit No. 0570057-37-AC	11/6/2019	[Insert date of publication in FEDERAL REGISTER] [Insert citation of publication]	Only incorporating the following conditions: Section 3, Subsection B, Specific Conditions 2 and 3a; Section 3, Subsection C, Specific Condition 1; and Section 3, Subsection D, Specific Condition 1.

(e) \* \* \*

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

<b>Provision</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Federal Register notice</b>	<b>Explanation</b>
<b>**</b>	<b>**</b>	<b>**</b>	<b>*</b>	<b>*</b>
2008 Lead NAAQS Maintenance Plan for the Hillsborough Area	1/23/2020	[Insert date of Publication in FEDERAL REGISTER]	[Insert citation of publication]	Updates to the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the March 26, 2018 maintenance plan.

[FR Doc. 2021-11541 Filed: 6/3/2021 8:45 am; Publication Date: 6/4/2021]